

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

DRIFTLESS AREA LAND CONSERVANCY,
WISCONSIN WILDLIFEE FOUNDATION,

Plaintiffs,

v.

OPINION AND ORDER

19-cv-1007-wmc

PUBLIC SERVICE COMMISSION OF
WISCONSIN, MICHAEL HUEBSCH,
REBECCA VALCQ, & ELLEN NOWAK,

Defendants,

and

AMERICAN TRANSMISSION COMPANY
LLC, BY ITS CORPORATE MANAGER,
ATC MANAGEMENT, INC, DAIRYLAND
POWER COOPERATIVE, and ITC
MIDWEST LLC,

Intervenor-Defendants.

Having considered the briefing on defendants' and intervening-defendants' motions to dismiss (dks. #6, 16), the court concludes that it would benefit from oral argument as to a number of the issues raised in these motions. Accordingly, the court will hold argument via Zoom on Monday, November 9, at 1pm. In particular, although not precluding other discussion, the court would ask counsel to be prepared to address the following issues: (1) whether or not plaintiffs have pled adequate facts to show that the alleged taking is for a private purpose; (2) whether or not plaintiffs have pled adequate facts to show bias in violation of constitutional due process; and (3) whether or not the relief requested by plaintiffs is prospective relief to remedy an ongoing violation of federal law (and would thus fall under the *Ex parte Young*, 209 U.S. 123 (1908), exception to sovereign immunity). For purposes of this hearing, plaintiffs, defendants, and intervening defendants may each designate two attorneys to appear via Zoom, and the parties on both sides are strongly encouraged to designate lead counsel, at least with respect to each of the issues designated above. The parties shall provide the emails for the attorneys who

will appear at the November 9 argument no later than noon, Friday, November 6, by emailing them to Melissa.Hardin@wiwd.uscourts.gov. All participants are reminded that video or audio recordings of the proceedings are strictly prohibited. Full guidelines governing access to court hearings can be found [here](#). A guide to participating in Zoom video hearings can be found [here](#). Public access to the video stream is available on [YouTube](#).

Entered this 30th day of October, 2020.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge